Book 2014 Page 303
Document 2014 303 Type 03 006 Pages 6
Date 2/10/2014 Time 8:36:11AM
Rec Amt $32.00

DEBORAH L PEYTON, RECORDER/REGISTRAR
DELAWARE COUNTY IOWA

TEMPORARY CONSTRUCTION EASEMENT
Recorder's Cover Sheet

Preparer Information:
Matthew J. Hektoen, Simmons Perrine Moyer Bergman PLC, 115 3rd St SE-Ste 1200, Cedar Rapids, (319)366-7641

Taxpayer Information:
N/A

Return Address
Matthew J. Hektoen, Simmons Perrine Moyer Bergman PLC, 115 3rd St SE-Ste 1200, Cedar Rapids, (319)366-7641

Grantors:
Marty Pottebaum

Grantees:
Lake Delhi Combined Recreational Facility and Water Quality District

Legal Description:

See Page 2

Document or instrument number if applicable:

Prepared by/return to: Matthew J. Hektoen, Simmons Perrine Moyer Bergman PLC, 115 3rd Street SE - Suite 1200, Cedar Rapids, IA 52402, (319) 366-7641 Phone

TEMPORARY CONSTRUCTION EASEMENT

This Temporary Construction Easement (the "*Easement*") is entered into on this 20th day of September, 2013 by and between ~~Martin~~ Marty Pottebaum, a Married person (the "*Grantor*") and the Lake Delhi Combined Recreational Facility and Water Quality District, an entity formed under Iowa Code Chapter 357E (the "*Grantee*").

RECITALS

A. Grantor is the titleholder of Lot 2, Part of Lot A, Connolly's Riverview Addition according to the plat thereof recorded in Plat Book 2, Page 146 in the Records of the Delaware County, Iowa Recorder (the "*Real Estate*").

B. Grantee is the titleholder of certain real estate located in Delaware County, Iowa legally described as:

Parcel L part of "Tract No. 4" (Plant Site), part of the SW ¼ of the NW ¼ of Section 29, and part of the SE ¼ of the NE 1/4, Section 30, all in Township 88 North, Range 4 West of the 5th P.M., Delaware County, Iowa according to the plat recorded in Book 7 Plats, Page 213

(the "*Dam Site*").

C. Grantee is desirous of a temporary easement on the Real Estate to facilitate the reconstruction of the "Lake Delhi" dam (the "*Dam*") a portion of which temporary easement relates to the Real Estate.

NOW, THEREFORE, for good and valuable consideration the parties agree as follows:

AGREEMENT

1. Grant of Easement. Grantor hereby grants to Grantee, its agents, employees, contractors and guests, an easement on the Real Estate as is more particularly shown by the cross-hatched area on the attached and incorporated **Exhibit "A"** (the "*Easement*") for the purpose of constructing, grading, improving, inspecting a water dam on the Dam Site along with the right to construct a coffer dam in the Maquoketa River to temporarily divert the flow of water in the Maquoketa River along with the right of ingress and egress over and through the Real Estate and for doing anything necessary, useful or convenient for the enjoyment of the easement herein granted. The Easement shall include the right to dredge, remove, grade and fill sand, silt, soil and any other substance located on or above the Real Estate for the any of the aforementioned purposes along with the right to improve the Real Estate for purposes of lateral support of the Dam Site. To the extent that Grantor owns any further land shown in the cross-hatch on **Exhibit "A"** Grantor consents to the grant of the Easement in the same.

Initials M.A.P.

2. Term. The term (the "*Term*") of this Easement shall commence upon the Effective Date and shall expire 24 months after the completion of the Dam.

3. Binding Effect. This Easement shall be binding upon the heirs, executors, administrators, successors, and assigns of the Grantor and shall be recorded with the Delaware County, Iowa Recorder.

4. Grantor Representation. Grantor represents and warrants to the Grantee that they own and have fee simple title to the Real Estate, and that the Real Estate is not subject to any liens and encumbrances that have not been disclosed to the Grantee, and Grantors have the full right to grant the Easement to the Grantee.

5. Waiver. Grantor, their successors and assigns, hereby waive and release Grantee from any and all claims for damages or compensation either now or in the future arising by reason of the use of the Real Estate for the purposes herein described. The Grantee, its contractors or assigns, shall not be held liable for damage to or removal of soil or other items located on or about the Real Estate.

6. Successors in Interest. This Easement and the benefits and obligations herein contained shall inure to the benefit of and be binding and obligatory upon the parties and their heirs, successors and assigns.

[SIGNATURES ON FOLLOWING PAGE]

Initials _____

GRANTOR

Martin Pottebaum

By:

Its:

GRANTEE

Lake Delhi Combined Recreational Facility and Water Quality District

By: Steve Leonard, President

STATE OF IOWA, COUNTY OF Delaware ss:

This instrument was acknowledged before me on this 20th day of September, 2013, by Martin Pottebaum, a Married person.

LAURIE A. KRAMER
Commission Number 768175
My Commission Expires
May 25, 2014

Notary Public in and for the State of Iowa
My Commission Expires 5-25-14

STATE OF IOWA, COUNTY OF Delaware ss:

This instrument was acknowledged before me on this 20th day of September, 2013, by Steve Leonard who is the President of the Lake Delhi Combined Recreational Facility and Water Quality District.

Notary Public in and for the State of Iowa
My Commission Expires 5/25/14

LAURIE A. KRAMER
Commission Number 768175
My Commission Expires
May 25, 2014

Initials M.A.B.

The Undersigned, being the spouse of Marty Pottebaum, hereby consents to the grant of the Temporary Construction Easement dated September 20, 2013 on Lot 2, Part of Lot A, Connolley's Riverview Addition according to the plat thereof recorded in Plat Book 2, Page 146 in the records of the Delaware County, Iowa Recorder.

Shawna Pottebaum

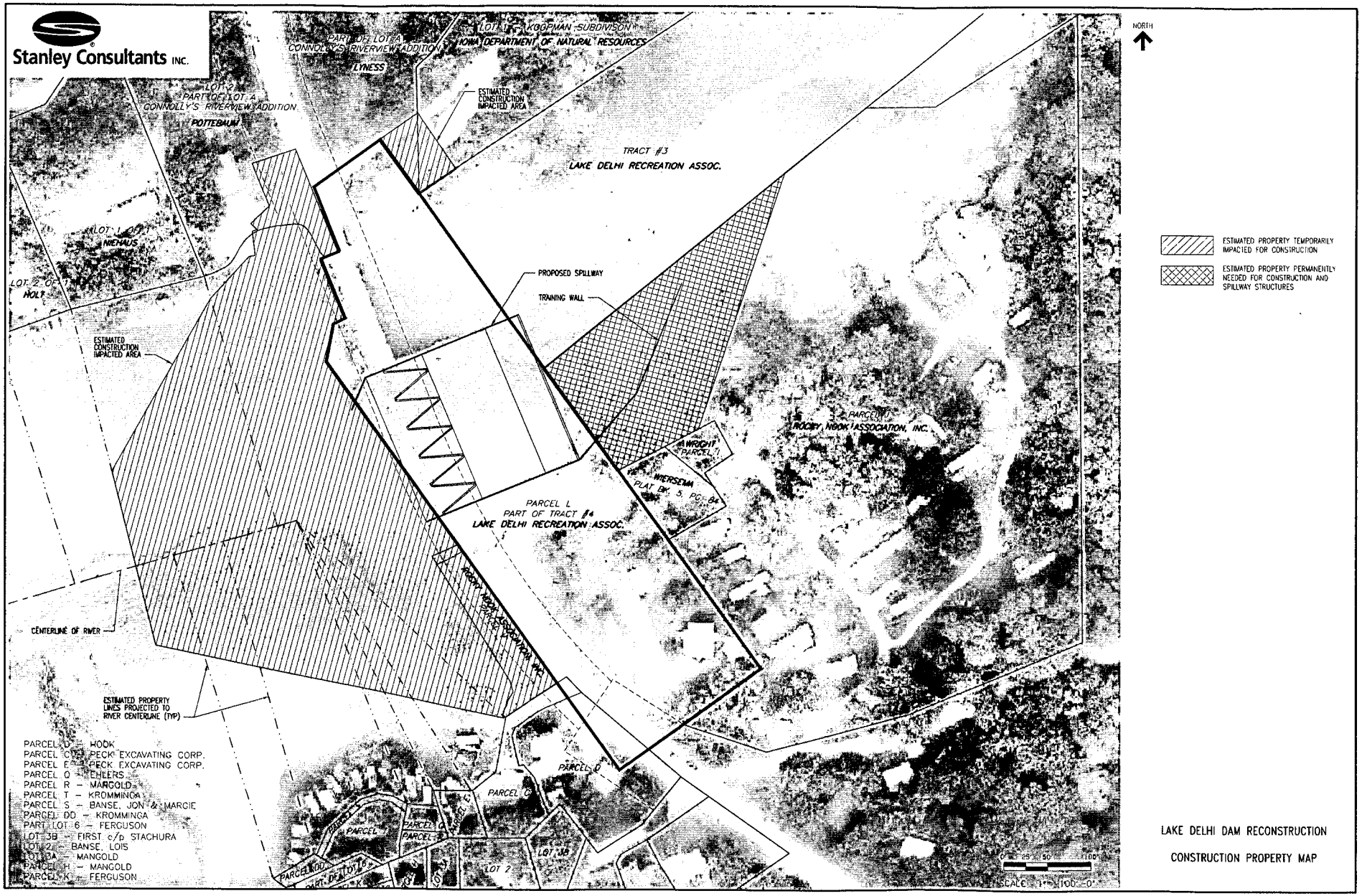
STATE OF IOWA, COUNTY OF Dubuque ss:

This instrument was acknowledged before me on this 12th day of February, 2014, by Shawna Pottebaum, a married person.

Notary Public in and for the State of Iowa
My Commission Expires 5-7-14

NOTARIAL SEAL IOWA
MARC W. CASEY
COMMISSION # 011508
MY COMMISSION EXPIRES
5-7-14

Initials_____ _____


Stanley Consultants INC.
NORTH
LOT 1 KOOPMAN SUBDIVISON
IOWA DEPARTMENT OF NATURAL RESOURCES
PART OF LOT A CONNOLLY'S RIVERVIEW ADDITION
LYNESS
LOT 2 PART OF LOT A CONNOLLY'S RIVERVIEW ADDITION
POTTEBAUM
ESTIMATED CONSTRUCTION IMPACTED AREA
TRACT #3
LAKE DELHI RECREATION ASSOC.
LOT 1 LOT 1
MENAUS
LOT 2 OF 1
HOLT
PROPOSED SPILLWAY
TRAINING WALL
ESTIMATED CONSTRUCTION IMPACTED AREA
PARCEL M
ROCKY NOOK ASSOCIATION, INC.
WRIGHT PARCEL 1
WIERSEMA PLAT BK. 5, PG. 84
PARCEL L
PART OF TRACT #4
LAKE DELHI RECREATION ASSOC.
ROCKY NOOK ASSOCIATION INC.
CENTERLINE OF RIVER
ESTIMATED PROPERTY LINES PROJECTED TO RIVER CENTERLINE (TYP)
PARCEL D
PARCEL G
PARCEL E
PARCEL C
PARCEL B
PARCEL A
LOT 3B
LOT 2
PARCEL K
PARCEL H
PARCEL D – HOOK
PARCEL C & E – PECK EXCAVATING CORP.
PARCEL O – EHLERS
PARCEL R – MANGOLD
PARCEL T – KROMMINGA
PARCEL S – BANSE, JON & MARCIE
PARCEL DD – KROMMINGA
PART LOT 6 – FERGUSON
LOT 3B – FIRST c/o STACHURA
LOT 2 – BANSE, LOIS
LOT 3A – MANGOLD
PARCEL H – MANGOLD
PARCEL K – FERGUSON
ESTIMATED PROPERTY TEMPORARILY IMPACTED FOR CONSTRUCTION
ESTIMATED PROPERTY PERMANENTLY NEEDED FOR CONSTRUCTION AND SPILLWAY STRUCTURES
SCALE 1" = 100'-0"
LAKE DELHI DAM RECONSTRUCTION
CONSTRUCTION PROPERTY MAP